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FINANCIAL PROCEDURES

# BULLETIN 6

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## PROPERTY TAXATION- BILLING AND COLLECTION

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Ontario Ministry of Intergovernmental Affairs

Hon. Thomas L. Wells  
Minister

D.W. Stevenson  
Deputy Minister


3 Local Government Division  
Municipal Budgets and Accounts Branch

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## INTRODUCTION

The property tax is the major source of revenue under the direct control of a municipality. The ability to raise and collect tax revenue, in large part, determines a municipality's financial well-being. Hence the importance of an effective tax billing and collection program.

The tax billing and collection system forms a significant part of a municipality's cash management program to the extent that cash management is concerned with maximizing cash availability through the conversion of receivables to cash receipts. Reference should be made to Financial Procedures Bulletin F.1 entitled "Cash Management in Municipalities" which outlines the goals, benefits and implementation of a cash management program.

As important as cash management is, however, an effective tax collection system will also build ratepayer goodwill which may in turn reduce difficulties associated with collecting property taxes.

The purpose of this bulletin is to provide municipal officials responsible for property tax billing and collection with general background information which may be helpful in developing collection policies and procedures. It highlights the legislative provisions for tax collection and outlines administrative procedures which some municipalities are using to improve collections.

While the bulletin covers the arrears process, emphasis is placed on tax billing and on current collections. Further bulletins will be prepared covering in more detail the various aspects of property taxation.

## AUTHORITY TO TAX

The base for property taxation is the assessment roll. *The Assessment Act* authorizes the valuation of real property and outlines the procedures for making such valuations. It defines those classes and types of properties which are subject to taxation and those which, although assessed, are exempt from taxation; authorization is also provided to municipal councils to exempt certain other properties from taxation. Further authorization to exempt taxes is given to municipalities under *The Municipal Act* and, for special circumstances, under private legislation.

Each year the Assessment Division of the Ministry of Revenue provides every municipality with a copy of the assessment roll for taxation purposes in the following year. The legislation puts into place a comprehensive appeal mechanism which is available to anyone wishing to challenge or correct any data relevant to his assessment. Corrections and revisions resulting from appeals are made by the Assessment Review Court and certified by the Regional Registrar. The yearly roll as revised and corrected then constitutes the last revised assessment roll of the municipality. The information included in this roll is then used by municipalities to determine mill rates and to levy taxes on an interim and final basis. In cases where revisions to the roll are not available when mill rates are struck, the returned roll is used and adjustments are made later.

Final mill rates are determined and levied only after a municipality complies with *section 307 of The Municipal Act*, wherein the council of every municipality must in each year prepare and adopt the annual estimates of revenues and expenditures. The section also stipulates those allowances which must be made in the preparation of the estimates. Of note in the context of this bulletin are allowances for the cost of collection, for the abatement and discount on taxes and for uncollectible taxes. In addition, a municipality may provide for an estimate of taxes that will not be collected during the year.

There is provision in *The Municipal Act (section 303)* for a municipality to levy taxes before the estimates are adopted by Council. The interim levy applies to both real property and business assessments. In both instances, the amount levied cannot exceed 50 per cent of the amount determined by multiplying the previous year's public school rate for all purposes by the applicable assessments in the last revised assessment roll. It is at this stage that the billing and collection process usually begins each year.

The final levy, which involves the calculation of the annual rates and which is equal to the sums adopted under *section 307*, is authorized under *section 302 of The Municipal Act*. The manner in which the annual rates are established is set out in *section 7 of The Ontario Unconditional Grants*

1975. All municipalities, when establishing rates and levying taxes, are bound by *section 504 of The Municipal Act* wherein all taxes or rates are to be levied equally on all realty assessments made under *The Assessment Act*, subject to special legislative provisions such as the mill rate differential and area rates.

Municipalities exercise their authority to tax through levying by-laws, which specify the rates to be levied during the year. *Section 307(3) of The Municipal Act* allows council to have one or several by-laws for levying. Both interim and current levy by-laws will include, in accordance with *section 527 of the Act*, several principles which contribute to improved collections; these will be discussed later.

Another equally important element of property taxation is the supplementary tax. *The Assessment Act (sections 42 and 43)* defines the rules for raising taxes on new assessments added during the year. Additional taxes may arise from a correction of an omission from the collector's roll or to new construction during the year.

There are, of course, other elements involved in the municipal revenue process such as payments in lieu of taxes, additions to the collector's roll (hydro arrears, drainage charges), special area rating, special taxing provisions under *sections 304 and 304(a) of The Municipal Act*, and taxes not included on the tax bill (i.e. sewer surcharges on

water bills); while important these will not be discussed in this bulletin except to the extent that they affect the overall billing and collection process.

The assessment roll as last revised and the levies, interim or final, form the base for the collector's roll which is required to be prepared under *The Municipal Act*. The procedures for preparing the roll are outlined in *section 516* of the Act. The collector's roll is prepared and certified by the Clerk of the municipality and delivered to the collector. Where revisions to the assessment roll are not available at the time mill rates are to be struck, the returned roll is used. Upon receipt of the collector's roll the collector is charged with the responsibility of collecting the taxes. It is here that the billing process begins.

## FRAMEWORK FOR BILLING

The tax bill is the most important instrument in the tax collection process; it is the culmination of a municipality's effort in developing its collection policies and procedures. Well before the collector's roll is prepared and the tax bill is designed, a municipality will develop its policies and procedures giving consideration to ratepayer needs, matters of administration, municipal requirements, and legislative compliance, bearing in mind that the objective is to maximize collection through the billing process.

### When to Bill

This decision is critical to effective cash management. At the same time, the decision will have a major impact on the financial resources of ratepayers. Municipalities generally try to strike a balance between their cash needs and the economic conditions in the community. While municipal cash requirements may usually be determined with little difficulty, an appreciation of ratepayer needs and resources is harder to come by.

Ratepayers may experience a burden with only one due date during the year. This will be reduced when a municipality decides to establish due dates which are consistent with its own cash needs throughout the year. The selection of the number and timing of due dates, whether for business

or real property, should also be guided by occasions during the year which may affect the personal finances of taxpayers--e.g. Christmas, harvest, pay dates. In addition, the number and timing of due dates for business taxes may differ from those of real property taxes and each is usually billed separately.

One other consideration exists in determining the number of instalments: the available administrative methods (manual, semi-automated or automated) permitted by a municipality's financial resources will affect the cost effectiveness and the frequency of billings.

A well considered choice of due dates will enhance municipal cash management and ease the tax burden for ratepayers; delinquency problems will also be revealed sooner so that they can be dealt with promptly.

There are no statutory limits on the number and timing of tax demands, other than the requirement that 14 days notice be given. As discussed previously, *section 302 of The Municipal Act* authorizes the annual levy and *section 303* gives authority to the interim levy. It is in *section 527(1)* however, where the choice of dates and number of instalments may be determined by a municipality. That authority is applicable to both the interim and final tax levies. The number of instalments and due dates are normally included in the levy by-law; where they are not,

then the rates imposed are deemed to be due on and from January 1st of the levy year (*section 311*).

Usually a review of municipal revenue and expenditure patterns, previous collection experiences, and any local employment and income data will give guidance in making a decision on the most appropriate due dates for a specific municipality. While such reviews can be made periodically and may result in a change to the number and timing of due dates, most local officials will rightly exercise caution, recognizing that changes could cause ratepayer confusion and resistance. Where it is decided that a change is required, municipal officials try to lessen the impact of the change by advertising it through the newspapers or information flyers.

#### Incentives to Pay

*The Municipal Act* recognizes the role of incentives in any collection system as a means of ensuring that taxes are paid early or on time; it gives municipalities the authority to charge penalties and interest on past due taxes and to provide discounts for advance payments. It also provides that in the event of default of payment of any instalment by the due date, the subsequent instalments may become payable immediately.

The legislation makes a distinction between the imposing of penalties and the charging of interest in respect of past due taxes. Under *section 527(3)* and (4) of *The Municipal Act*, all taxes billed during the current year that remain unpaid in that year may be subject to a penalty charge, but only from date of default to the date of payment or to the end of the year, whichever comes first. Taxes billed in previous years that continue to remain unpaid (i.e. arrears) are subject to an interest charge from the beginning of the year that the taxes went into arrears to the date of payment (*section 553*). While penalties and interest are added to and form part of unpaid taxes, and are to be collected as taxes (*section 553(3)*), the Act stipulates that they are not to be compounded (*section 553(2)*).

In both cases, municipal council, by by-law, may define the rate to be used either on a monthly basis or a yearly one. The only restriction specified by the sections in question is that the rate currently cannot exceed either 1 1/4 per cent per month or 15 per cent per year. An exception to these authorities exists when no by-law exists to require the charging of interest on tax arrears. This instance calls for a mandatory charge at the rate of one-half of 1 per cent per month (*section 553(1)*).

Municipalities generally use the maximum rates currently allowable under the legislation in order to ensure, first, that any costs of borrowings resulting from unpaid taxes are adequately covered, and, second, that ratepayers are not motivated to treat unpaid taxes as an alternative form of borrowing. Recent legislative amendments to these sections increased the maximum allowable rate from 12% to 15% as a result of these concerns which are intensified in periods of high interest rates.

The provision of discounts for advance payments of taxes is another tool that might be used to improve collections although the practice is not now prevalent. *Section 527(5) of The Municipal Act* provides municipal council with the authority to authorize, by by-law, the receipt of tax payments in advance of the instalment dates and to allow a discount or interest on these advance payments. Again, the legislation places an upper limit on the rate which may be used; discounts or interest cannot exceed 12 per cent per annum. The legislation does provide for the allowance of both a discount and interest, but only to the extent that interest is allowed for any portion of the period for which no discount is allowed.

Few municipalities now use this type of incentive since advancing the due dates and increasing the number of instalments have improved their cash flow position. In addition, the costs of administering discounts can outweigh their benefits.

### Ease of Payment

Municipalities are constantly seeking ways to make it easier and simpler for the taxpayers to meet their tax obligations. While the legislation is specific about where taxes are payable, it does offer municipalities flexibility in providing options to the ratepayers. *Section 527(1)* requires taxes to be paid into the office of the treasurer or collector, but that is supplemented by *subsection 8* of the same section wherein a municipality can authorize, by by-law, the payment of tax moneys into a chartered bank, trust company, credit union or a Province of Ontario Savings Office.

In addition to these options, a municipality will normally institute administrative measures which make it easier for the taxpayers to make payment directly. Extending the office hours around billing time will assist those ratepayers who wish to pay in person or who have questions about their taxes. For those who wish to avoid lineups, including a return envelope with the tax bill will assist the taxpayer. Allowing taxpayers to meet their annual tax levies by way of post-dated cheques is highly effective and represents a predictable cash flow for the municipality.

There is one billing category which provides the municipality with some ease in the collection effort; where mortgagees require that they pay taxes on behalf of their clients, collections can be virtually assured. For this reason, municipalities normally make special arrangements with agents to make billing and collection easier

on both. The procedure normally entails updating the client record of each agent for billing purposes and providing each agent with composite totals for payment purposes.

### Tax Bill Design

Provincial legislation requires that certain data be included on the tax bill. These requirements are specified principally in *The Municipal Act*, and to a lesser degree, in *The Education Act*. *Section 521(3)* of *The Municipal Act* requires inclusion of a schedule of the different rates and their total used in calculating taxes; it also requires that the notice contain the information required under *section 516* of the Act to be entered in the collector's roll. This section covers a number of elements such as name, assessment, amount for upper-tier municipalities, amount for general purposes, local improvement rates, sums required by statute to be added, school rate and others. *Section 209(1)* of *The Education Act* requires that the school rate be further disclosed by providing the public, secondary and separate school rates and taxes imposed.

Needless to say, these legal requirements are numerous enough in the context of designing the tax bill without adding other information. But there are other elements which municipalities find necessary to include on the tax bill for control purposes, such as tax account number, tenant number, mortgagee name and number, etc.

Placing all this information on the tax bill is not an easy task; it is not made easier when the main objective in doing so is to motivate the ratepayers to act by making the tax bill simple and informative and easy to read and understand, with clear and concise instructions. Apart from content and style, layout of data, colour and size become important considerations in the design of the tax bills.

A number of municipalities make the design task easier by transferring information not required by law and for internal control from the tax bill to an information leaflet or brochure.

#### Public Relations

The billing phase offers an opportunity for municipalities to minimize some problems of tax delinquency at the collection stage.

In the interest of improved collections and taxpayer goodwill, a municipality should do as much as possible to keep the public well informed on its affairs. Many municipalities consider the billing phase as the most appropriate time to do this.

They send budgets and financial reports, booklets or leaflets about municipal operations with the tax bill or place information on the tax bill itself. Apart from the information required to be given by the legislation, information can be provided in brochures and pamphlets in various forms:

1. Instructive information on the property tax system itself. Some examples: how assessment, budgets and mill rates are determined; how the municipality collects taxes on behalf of the upper-tier municipalities and school boards; the difference between interim and final tax bills; what supplementary taxes are.
2. General information about the municipal organization, its operations and the services provided.
3. Procedural information--where and how taxes are to be paid; municipal office hours; who to contact, who to make the cheque payable to, etc.

The use of newspaper advertising to announce tax levies, rates and due dates, and the use of news releases on finances are also effective public information techniques.

*Section 224 of The Municipal Act* places no upper limit on the amount of information a municipality may give to its ratepayers. It does stipulate, however, that at a minimum, a municipality is to publish, or mail to each taxpayer, a copy of the audited financial statements, or a summary of them along with a copy of the auditor's report. In addition, under *The Municipal Affairs Act (section 11)*, the Province requires municipalities to

notify their ratepayers of the degree of financial assistance the Province is providing to the municipality. This information is normally included on the tax bill or in the information brochures of the municipality.

The amount of information provided and its level of sophistication will vary from municipality to municipality. For guidance, reference can be made to this Ministry's publication "Financial Disclosure to the Public--A Code for Municipalities in Ontario", which is available at the Ontario Government Bookstore.

#### Billing Systems

The options available to a municipality in designing its billing structure are very much dependent on the operational method its resources will allow. The objective in determining how tax bills and collections are to be processed is to meet the needs for information and control, measuring these needs against the volume of work to be performed.

Tax bills and collections may be processed manually or through some combination of automation and manual operation. Accounting machines (mechanical or electronic), micro-computers, mini-computers, small business computers and large computers represent degrees of automation in terms of capacity and capability. For more information

on computers, reference can be made to this Ministry's publication entitled "Using Computers" which is available at the Ontario Government Bookstore.

Where the volume of work to be performed in a municipality is small, a manual system may be the only viable alternative. In this case, one-write manual systems are effective in that the preparation of the original document produces other records and documents which are needed for record keeping and control purposes. But even a one-write system may prove onerous where a municipality wishes to increase the number of instalments. For this reason there is now greater interest on the part of small municipalities in the potential for automation.

Automation facilitates the preparation of the collector's roll and the tax bills by making easier the inclusion of more data on the bill itself; it allows the use of bills to simplify the processing and recording of payments, e.g. punched instalment cards; it makes possible the use of multiple billings; and it can assist in the collection effort by making the follow-up and analyses of receivables more timely and accurate.

The size and resources of a municipality will in part determine whether it automates and, if so, to what extent. For the smaller municipalities particularly, the range of options is now wider because advances in computer design

have effectively reduced their cost. In addition, computer power is now more readily available from service agencies or from other organizations with excess computer capacity such as other municipalities. For example, one alternative that a smaller municipality can consider is to use the computerized assessment tape provided by the Assessment Division to produce the tax bills.

The main consideration in developing any system should be value for money. A municipality should therefore attempt, in selecting a tax billing system, to relate the range and quantity of information each system studied produces with the cost of the system.

#### COLLECTION

A well designed tax billing system, while it will maximize collections at the billing stage, will not eliminate the problem of overdue and unpaid taxes. There are various administrative options and legislative provisions used by municipalities to improve the collection of overdue accounts, and ultimately, to ensure payment of taxes.

*The Municipal Act* outlines legal procedures available to enforce collections. *Sections 511* and *512* form the base for the collection effort wherein taxes due and payable may be recovered as a debt due to the municipality. *Section 511*, in addition, places a special lien on lands in respect of which taxes are due.

Apart from court action, a municipality is empowered under *The Municipal Act* to seize tenant rents, use bailiffs, levy with costs by distress and sale and, as a last resort, sell lands in arrears. An alternative to the tax sale procedure exists under *The Municipal Affairs Act* wherein a municipality may elect to use the tax registration system.

Although these measures strengthen a municipality's position in collecting overdue taxes, many municipalities, recognizing the time and cost associated with them, develop and implement an administrative follow-up system. A current collections policy involving procedures for follow-up notices, letters, visits and telephone calls, contributes substantially to the success of the collection effort.

#### Current Collections Policy

The cost of collection is a factor in determining the amount of effort and type of measure used in collecting taxes.

A system designed to follow-up overdue accounts early will save the time and money required to enforce collection later. There are degrees to which follow-up procedures may be implemented and a municipality should follow only those collection procedures and practices which its resources will allow. Where resources are limited, for instance, it may be desirable to place particular emphasis on the larger and older accounts; small amounts outstanding are as time-consuming and as costly to collect.

Follow-up procedures can be done by printed notice, letter, telephone, telegram or visit. Personal contact through visits and telephone are effective ways to obtain information or commitments from ratepayers. Visits have the disadvantage of being time-consuming and many municipalities find that available staff resources do not allow the use of this method. Telephones have the added advantage of being less costly than the use of letters and less time-consuming than visits, but do require that the staff follow specific, well-documented procedures.

The use of form letters or notices is another viable method where collection problems are uniform and frequent. Ideally, these letters should be personalized; however, where larger municipalities may accomplish this by way of word processing facilities, most smaller municipalities find it too expensive to have these letters individually typed.

Some municipalities include in their follow-up procedures administrative measures which further improve their collection chances. Examples are: checking the newspapers for out-of-business sales, moving sales, bankruptcy sales or auctions; paying close attention to changes under *sections 42 and 43 of The Assessment Act* for business taxes; locating business owners through the telephone directories, city directories and neighbouring businesses; following up on requests for tax clearance certificates to determine the

status of property ownership; using sections 636(a) and 636(b) in tandem for business taxes by writing off the remaining taxes for one tenant and, instead of waiting for a supplementary assessment, immediately, with council authorization, amending the roll to show the new tenant for the balance of the year. In smaller municipalities, where there generally exists an intimate knowledge of the community, many of these measures may not be necessary.

The role of the collector requires the ability to strike a balance between fairness and firmness and between maintaining the goodwill and the respect of taxpayers. This task can be made easier if routine procedures are developed to ensure that follow-ups are done in a timely and consistent manner, with increasing stringency, yet with understanding. Whatever the follow-up practices employed, it is important to follow through when the ratepayer is told that certain actions may be taken. Otherwise, follow-up procedures will lose their effectiveness.

Timeliness is important in that the longer an account is overdue without any follow-up action, the harder it gets to collect. For this reason the initial follow-up should be done immediately after the due date. It is also necessary to continue with subsequent follow-ups in a methodical manner so that the taxpayer is constantly reminded of his obligation. The time lapse between notices, letters, calls, etc., should take into account previous experience;

the frequency of follow-ups will vary according to circumstances, with the time lapse decreasing for each succeeding follow-up.

Understanding the nature and circumstances of the delinquent taxpayer is another important element in collections. There is, of course, always a reason for a taxpayer's failure to pay on time. Allowing the taxpayer to explain why he has not paid can highlight instances where, with the assistance of the municipality, no further follow-up action may be required. Municipal assistance may for example take the form of guidance on available assistance programs, social services, credit counsellors. In addition, a municipality may make payment schedule arrangements, allow part-payments as authorized under *section 527(9) of The Municipal Act*, or make adjustments under *section 636(a) of the same Act*, although these should be carefully controlled to prevent abuse.

The collection procedures developed for outstanding business taxes may vary from those developed for outstanding property taxes. Because no property lien provision exists for business tax and because businesses are more transitory in nature, a municipality's follow-up procedure for business tax receivables could well be more abbreviated than those for realty taxes. It is to a municipality's advantage to attempt to enforce collections strictly within a short time-period and to implement other measures to collect the taxes sooner.

Lastly, the collection process requires increasing the strength of the effort over a period of time. The first follow-up may just be a reminder to the taxpayer that he has not paid. A duplicate of the original bill may be used for this purpose, with a gummed label or rubber stamp signifying that it is a reminder and that taxes are outstanding; alternatively, specially printed reminder forms may be used.

The next follow-up can be an enquiry. Its purpose is to motivate some action on the part of the taxpayer, the underlying assumption being that something has prevented the taxpayer from paying. Here a municipality may obtain the reason for non-payment and may be able to resolve the difficulty to the satisfaction of both parties. In this instance, prestamped return envelopes may help motivate the taxpayer to act.

If no response is received at this stage, the subsequent follow-up should convey a sense of urgency. To this point a municipality can suggest that alternative payment arrangements may be made. The last stage in the process is giving the delinquent taxpayers an ultimatum stating that, if the taxes are not paid, enforcement measures will be taken. If an account has reached this stage it is fairly certain that alternative measures are needed, so no purpose will be gained in continuing the follow-up procedure.

In summary, the key to successful tax collection is early action using routine follow-up procedures that are being continuously evaluated for their effectiveness. Just one final warning, municipalities are well advised to consult a solicitor on questions of legality in developing their procedures and forms for collection work.

#### Attornment of Rent

This legal provision relating to the seizure of rent (*section 513 of The Municipal Act*) allows a municipality, in respect of outstanding realty taxes, to require a tenant to pay the rent of the premises to the municipality for purposes of applying it to any unpaid taxes and costs. The collector, or, after the return of the roll, the treasurer gives the tenant notice in writing and has the same authority that the landlord of the premises would have to collect the rent. The tenant may deduct from his rent any taxes paid by him in this fashion (*section 514*).

In practical terms, this provision may not always be effective in that it may be difficult to enforce if a tenant is reluctant to make payment to the municipality. Selective use of this provision, however, can bring results and, because it does not prevent the use of any other procedure to recover taxes, this measure can play a part in a municipality's overall collection effort.

### Distress and Sale

Under *section 528* of *The Municipal Act*, failure to pay taxes within 14 days of demand or notice, subjects delinquent taxpayers to distraint proceedings. Essentially this allows a municipality or its agent to seize goods and chattels of the person taxed and, under *section 530*, sell as much of them as is necessary to meet the unpaid taxes and costs. Any surplus arising from such a sale is returned to the person whose property was distrained if there is no other claim by others on the goods (*section 531*). If such a claim is admitted, the surplus is to be paid to the claimant (*section 532*), but if a claim is contested then the surplus is retained by the municipality until the rights of the parties involved have been determined (*section 533*).

In general terms, taxes may be levied with costs by distress upon the goods and chattels belonging to or in the possession of the person taxed, subject to certain exemptions and provisions outlined in *section 528* of *The Municipal Act*. For realty taxes, the person taxed means the owner or tenant of the land whose name appears on the collector's roll; for business taxes, it is the owner of the business. In practice, municipalities usually use distraint proceedings for outstanding business taxes.

Because no property lien provision exists for business taxes, distraining becomes a problem if the person taxed cannot be located or if the assets have been removed.

Section 528(6) of *The Municipal Act* offers some relief if the collector has reason to believe that the person taxed, whose goods are subject to distress, is about to remove the goods from the municipality before the expiry of the time for payment of taxes. In such cases, the mayor or reeve of the municipality, upon receiving an affidavit from the collector to that effect, may issue a warrant to the collector, authorizing him to levy the taxes with costs by distress before the time for payment has expired.

Municipalities seldom perform the distraining function themselves, normally using a bailiff as permitted by *The Municipal Act*. Currently, municipal bailiffs have authority to act only within the county. The distraint procedure begins when the tax collector issues a warrant to the bailiff authorizing him to levy the taxes detailed on the warrant with costs by distress. The bailiff proceeds to carry out the terms of the warrant and reports back to the municipality regularly on the status of the account. Technically, seizure can be performed immediately and by visitation alone. However, the usual practice is to inform the taxpayer by letter of the turnover of the account to the bailiff and of the possibility of seizure. Generally, before actual seizure takes place, several follow-ups are made by the bailiff and the taxpayer is provided the opportunity to explain his failure to pay or to agree to payment arrangements.

Usually the collection procedure followed by the bailiff will bring results before seizure is required. Difficulties arise, however, in cases where a business is in bankruptcy, where the person taxed cannot be located or is out of the county, or where the assets have been removed. Such accounts and their history are usually returned to the municipality for further action.

Where bailiffs are engaged, distraint proceeding costs are borne by the delinquent taxpayer and are paid to the bailiff. The costs are the same as those payable to bailiffs under *The Small Claims Court Act*. However, if distraint proceedings are performed by salaried employees of the municipality, the costs incurred are borne by the municipality.

The engagement of bailiffs then can be a cost-effective collection tool for municipalities. Bailiff services, however, are not currently available in many of Ontario municipalities, making it necessary for these municipalities to resort to other means of collection as described in this bulletin.

### Court Action

A municipality, in consultation with its solicitor, may decide to resolve its delinquency difficulties through the courts. If this recourse is to be used, standard criteria should be developed which would apply to all delinquent taxpayers equally.

A municipality may commence an action in a Small Claims Court, County Court or Supreme Court, depending on the amounts involved in any particular case. After judgement is awarded the municipality may enforce it by having a Writ of Execution issued by the Registrar (or Clerk for Small Claims Court) of the Court from which judgement was delivered. The Writ of Execution can then be delivered to the Sheriff of the particular County for which the Writ was issued. Executions may be enforced against personal property, and subsequently, against real property, subject to certain limitations. This process is applicable to judgements delivered by all levels of Courts.

Whereas County Court action may be slow and cumbersome, action in Small Claims Court, is quicker and cheaper, but has the disadvantage of a maximum limit on the claim amount. Claims up to and including \$1000\* may be brought to Small Claims Court. In the majority of cases, the amount of taxes

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\*In Metropolitan Toronto, the maximum limit on a claim is \$3,000.

outstanding will exceed that amount and, under *The Small Claims Court Act*, splitting of claims is not allowed. Even with these disadvantages, however, a municipality could benefit from the use of the courts.

Some municipalities will bring action against a delinquent business taxpayer in County or Small Claims Court, so that its priority as a creditor in the event of bankruptcy will be improved. In the case of Small Claims Court a municipality may decide, although its claim exceeds \$1000, to sue for the \$1000 and abandon the rest on the premise that Small Claims Court is inexpensive and accessible and that the full amount cannot be collected expeditiously by any other means.

#### Collection Agencies

A growing number of municipalities are engaging the services of a collection agency as a last resort measure for those accounts that are deemed uncollectible by other means. Collection agencies may be used either in lieu of or in addition to bailiff services, and are found to be especially appropriate for business accounts where the owner is out of the municipality or county.

The cost associated with the use of collection agencies is a factor in determining the extent to which they are used. Unlike bailiff services where the cost is borne by

the delinquent taxpayer, collection agencies charge a percentage of what they collect, with the municipality benefiting from the balance after treating the charge as a collection cost. The charge can range from 20 per cent to 50 per cent, depending on circumstances; as a result, the loss in taxes can be substantial if collection agencies are used regularly and routinely. However, collection agencies can play a role in the overall collection effort so long as their use is restricted to accounts where the likelihood of collection is small.

Municipalities interested in using a collection agency usually evaluate various agencies on the basis of their going rates according to volume, their experience in the field, their reporting and control systems, and their geographic area of operation. A municipality usually then enters into formal arrangements with the agency chosen.

### County

The County is required to collect the tax arrears of its constituent townships and villages unless, under *Section 604 of The Municipal Act*, it passes a by-law authorizing the transfer of the responsibility to the villages and townships. This procedure is no longer widely used and cannot be considered a collection tool in that it only establishes responsibility for tax arrears. While it might be assumed that the county would be better able to administer the function, there are reasons to believe in

some instances that the collection effort may not be as effective. First, the tax collection function is divided, and as such, accountability and control may be lost, and, second, there may be no direct incentive to collect the arrears. However, the effectiveness of the procedure is of course highly dependent on the county administration.

#### Tax Sale/Registration

When taxes have not been paid for a number of years and it becomes apparent that the lien rights, as provided under *section 511 of The Municipal Act*, must be exercised, the municipality may proceed under one of two procedures to obtain the land for taxes. *The Municipal Act*, beginning with *section 555*, outlines the system for tax sale and *The Municipal Affairs Act* describes the system of tax registration.

The details of these two systems will be the subject of a further bulletin. In general terms, the tax sale system involves the sale of properties by public auction after publishing in the Ontario Gazette the date of sale and the properties to be sold. The tax registration system involves the registration of a tax arrears certificate which transfers title to the municipality, subject to defined rights of redemption.

Every municipality is required to use the tax sale procedure except where a by-law is passed to transfer to the tax registration system and an amendment is made to the regulation under *The Municipal Affairs Act* to include the municipality wishing to so transfer. The majority of municipalities in Ontario currently use the tax registration system, since it is considered less costly and less cumbersome than the tax sale system. But whatever the system used, it is best to view the seizure of real property for arrears of taxes as a last resort.

#### MANAGING THE SYSTEM

A significant contribution may be made to improved collections by incorporating control, monitoring and evaluation procedures into the overall system design. Documentation, staff development and training, record keeping, data analysis and reporting all promote accuracy, consistency and accountability and, thus, play a part in the collection effort.

##### Documentation

Effective control of the billing and collection process is difficult to maintain when policies and procedures are not formalized or documented. Some policies are required by law to be authorized by municipal by-law. Others can be authorized by council resolution or regulations while still others can be documented administratively.

The levy by-law enacts broad policy relating to penalties, interest, discounts, instalments, interim billing, final billing, tax certificates, where taxes are to be paid and part-payments. A council resolution could be passed covering broad policies relating to current collections, public notices, methods of collection, enforcement of lien rights, and reporting to council. Detailed administrative policies and procedures may then be documented, and incorporated into a manual, to supplement the broad policies approved by council.

Documentation of the system, in this way, will greatly assist the municipality in training its staff, in informing the public and in applying the policies equally and equitably to all ratepayers.

#### Maintenance of Records

A municipality also has an interest in the accuracy and completeness of the assessment roll since it forms the base for the billing and collection system. Implementing procedures to review the roll when it is received and monitoring it continuously could highlight errors and omissions which could be corrected early. In addition the collector's roll is subject to change during the year, i.e. Assessment Review Court decision, supplementary assessments under *The Assessment Act*, ownership, address and other changes. These changes will have to be controlled if a municipality wishes to bill the right person for the right amount at the right time.

A procedure to regularly update and maintain the source data, apart from improving the timeliness of payments, will reduce, if not eliminate, the incidence of errors which may impact on a municipality's legal rights in the collection of taxes. For example, it is especially important that arrears certificates issued under *section 549 of The Municipal Act*, be accurate because the information provided on the certificate is legally binding on the municipality.

The current collection procedures followed for overdue accounts will generate information which should also be monitored and maintained. A system to record the follow-up history and status of an account and ratepayer responses will assist the municipality in taking further appropriate action.

#### Analysis and Reporting

Analysing and reporting on overdue taxes will not only assist in taking remedial action on current receivables, it will provide information for the development of future policies and procedures. An analysis of overdue accounts and collections can identify those methods which are working and those which are not.

Comparisons made between years will offer a perspective on performance, as will comparisons with other municipalities. Annual reviews should be supplemented by ongoing

reviews during the year so that trends can be monitored and performance levels can be controlled on a current basis. Regularly aging your receivables, comparing the number and amount of receivables to the same period last year, determining the amount and percentage collected for interim and for final billings are some analytical methods available.

Other common data elements to review are: tax arrears as a percentage of current taxes billed; current collections as a percentage of current taxes billed; and total collections as a percentage of current taxes billed.

The analysis of receivables also contributes to the task of estimating write-offs and receivables for the annual estimates, and discloses problem accounts sooner so that tax adjustments under *section 636* and *636(a)* of *The Municipal Act* may be reported to council for early action. It is especially important in the case of *section 636(b)* adjustments in that they must be made in the year in which the levy was made. All these adjustments should be processed regularly. Referring them to Council through the use of standard forms and procedures will also help ensure that each and every account has been properly followed-up and that the potential of collection has been exhausted.

Regular information reports to council can contribute to the success of a municipality's collection effort. Since council makes the key decisions on policy, its involvement in the process through reports is essential.

### CONCLUSION

The development of an effective tax collection system requires a multi-disciplinary approach encompassing the use of skills in management, administration, law, systems, communications, human resource development, finance and accounting.

Where all these skills are present in a municipality, it is more than likely they will be distributed among several departments. This generates the need for an inter-departmental approach to the development of the system. Coordination of and input into the design is usually accomplished through the management team approach.

Whether all the skills required to design a system exist or not, municipalities find advantage in interacting with each other either individually, or collectively through specialist associations such as the Association of Municipal Tax Collectors of Ontario, and other associations.

It is hoped that this and future bulletins relating to property taxation will supplement this communication process, and assist local governments in the task of enhancing the effectiveness of their current systems.

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APPENDIX

Legislative References

<u>Authority to Tax</u>	<u>The Municipal Act</u>	<u>The Assessment Act</u>	<u>The Municipal Affairs Act</u>	<u>The Education Act</u>
<u>Assessing:</u>				
Valuation of real property & exemptions		sections 3,4,5&6		
Valuation of business properties		section 7		
Preparation of assessment roll		section 17		
Notices of assessment		section 40		
Timing for return of roll		section 46		
Delivery of roll to municipality		section 49		
Appeals to Assessment Review Court by persons assessed and corrections and alterations		section 52		
Definition of last revised assessment roll on which rate of taxation to be based		section 47		
Roll as finally revised to be binding on all parties concerned		section 53		
Supplementary assessments for additions and alterations to real property and for changes to business operations may be added to collector's roll		section 42 and 43		
Appeals to County Judge		section 55		
Appeals to Ontario Municipal Board		section 63		

Legislative References

Authority to Tax (cont'd)

The  
Municipal  
Act

The  
Assessment  
Act

The  
Municipal  
Affairs Act

The  
Education  
Act

Levyng:

Municipality to levy taxes on the assessments as contained in the roll

section 504

section 47(3) & (4)

Municipality to prepare and adopt estimates each year

section 307

section 302  
and 510

section 208  
and 217

Municipality may levy on an interim basis

section 303

section 302  
and 303

sections 215  
and 216

Determination of rates

Special taxing provisions for universities, colleges, public hospitals, penal institutions and telephone and telegraph companies

section 304  
and 304(a)

Rates to be due on January 1 unless otherwise provided by the by-law

section 311

Rates of taxation are calculated on all rateable property

section 506

Taxes due become a lien on lands

section 511

Collector's Roll:

Preparation of the Collector's role

section 516

Provision for minimum tax

section 517

Certification and delivery of collector's roll by clerk

section 518

Legislative References

	<u>The Municipal Act</u>	<u>The Assessment Act</u>	<u>The Municipal Affairs Act</u>	<u>The Education Act</u>
<u>Authority to Tax (cont'd)</u>				
<u>Collector's Roll (cont'd)</u>				
Alteration of collector's roll after collector's roll is returned	section 519			
Appointment & duties of collector; security and declaration of office	sections 226 233, 235 & 520			
<u>Framework for Billing</u>				
<u>When to bill:</u>				
Use of interim billings	section 303			
Use of instalments for interim and final levies	sections 527(1) and 527(11)			
<u>Incentives to pay:</u>				
Charging of penalties	section 527(3) and (4)			
Provision for discounts	section 527(5)			
Charging of interest on arrears	section 553			
<u>Ease of Payment:</u>				
Provisions for payment of taxes into treasurer's office, banks, credit unions, etc.	section 527(1) and (8)			
Provision for part payments	section 527(9) and (10)			

Legislative References

	<u>The Municipal Act</u>	<u>The Assessment Act</u>	<u>The Municipal Affairs Act</u>	<u>The Education Act</u>
<u>Framework for Billing (cont'd)</u>				
<u>Tax bill design:</u>				
Preparation of notices by collector	sections 521(1)&(2), 521(a), 522,523,524 & 525.			
Information to be included on tax notice	sections 521(3), 516; 521(a)(2) & (3) and 527(6)			Section 209
<u>Public Relations:</u>				
Publication of audited financial statements or summary and any additional information	section 224			
Notification of Provincial financial assistance			Section 11	
<u>Collection</u>				
<u>Attornment of Rent:</u>				
Municipality may seize rents	section 513			
Tenant may deduct taxes paid from rent	section 514			
<u>Distress and sale:</u>				
Unpaid taxes that are a charge on land	section 528(1)			
Unpaid taxes that are not a charge on land	section 528(2)			
Public notice of sale	section 530			
Treatment of surplus on sale	sections 531, 532 & 533			

Legislative References

Collection (cont'd)

The  
Municipal  
Act

The  
Assessment  
Act

The  
Municipal  
Affairs Act

The  
Education  
Act

Court Action

Recovery of taxes by court action

section 512

Tax arrears generally:

Return of the collector's roll

section 534&536

Oath of collector on returning roll

section 535

Duty of Treasurer upon receipt of  
returned roll

section 537

Tax certificates arrears

section 549

County:

Responsibility of county for tax  
arrears in villages and townships

sections 538  
and 604

Tax Sale:

section 543  
to 613

Tax Registration:

sections 47  
to 56

Tax Adjustments

sections 636  
and 636(a)  
and 636(b)

Note: Amendments to the statutes occur frequently and may affect the above references to the particular sections of the statutes stated. Recourse should be made to the Ontario Statutes Citator for the most current references.

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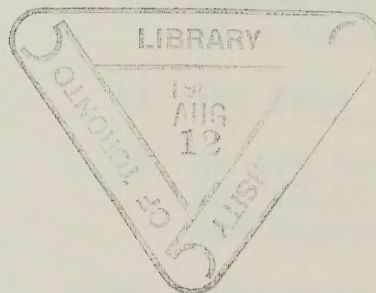
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